

1 REMARKS

2 Status of the Claims

3 Claims 1-56 are now pending in the present application; Claims 4, 12, 14, 21, 24, 27, and 35
4 are amended. Claims 57-61 are cancelled without prejudice, having been canceled as non-elected in
5 response to a restriction.

6 Restriction/Confirmation of Election

7 The Examiner previously issued a telephone restriction, indicating that the claims are
8 drawn to two sub-combinations disclosed as usable together in a single combination.
9 Specifically, he noted that Claims 1-56 (Group I) are drawn to a method of determining
10 performance metrics for a distributed application/process of a web page, classified in class 709,
11 subclass 224, and 57-61 (Group II), which are drawn to a method of automatically directing a
12 computing device to download distributed application data from a preferred source, classified in
13 class 709, subclass 219. In response, applicants elected the claims in Group I, i.e., Claims 1-56,
14 with traverse. Applicants hereby confirm that election and have canceled non-elected Claims 57-
15 61, subject to applicants' right to file a divisional application directed to the non-elected claims
16 during the pendency of the present application. No change in inventorship is required as a result
17 of the cancellation of Claims 57-61.

18 Claim Objections

19 The Examiner has objected to Claim 21 because of a typographical error. Claim 21 has now
20 been amended to read "performance metric for a network" as described above in the claim
21 amendments. Accordingly, this objection should be withdrawn.

22 Claims Rejected Under 35 U.S.C. § 112, Second Paragraph

23 The Examiner has rejected Claims 4-6, 12, 16-18, 24-27, and 45-48 under 35 U.S.C. § 112,
24 second paragraph, as being indefinite for failing to particularly point out and distinctly claim the
25 subject matter, which the applicants regards as their invention. Claims 4, 24, and 27 have been
26 amended to correct an antecedent basis error. Claim 12 has been amended to remove the term
27 "substantially," as indicated in the above claim amendments. Accordingly, the applicants
28 respectfully request that the rejection of these claims be withdrawn.

29 With regard to Claims 16, 24-27, and 45-48 the Examiner is respectfully reminded that a
30 claim which properly depends from a preceding claim also includes each and every limitation of the

1 claim from which it depends, and that it is improper to reject a claim for lack of antecedent basis in
2 connection to an element of the claim when such basis is properly provided in the preceding claim
3 from which the rejected claim depends (e.g., see MPEP 2173.05(f)). Indeed, the Examiner has noted
4 that antecedent basis exists for the element of the claim about which the objection is raised, in the
5 claim from which the claim objected to depends. For example, Claim 16 depends from Claim 15,
6 and Claim 15 recites the phrase "a data center." Therefore, proper antecedent basis for "the data
7 center" in Claim 16 is provided by the recitation of Claim 15. Similarly, Claim 24 depends from
8 Claim 23, which recites the phrase "a data center." Thus, there is proper antecedent basis for the
9 phrase "the data center" as it appears in Claim 24. Claims 25-26 depend from Claim 24, and
10 therefore, there is proper antecedent basis for "the data center" as used in each of these claims. Claim
11 27 now depends from Claim 23, and therefore, there is proper antecedent basis for "the data center"
12 as used in Claim 27. Claim 45 depends from Claim 44, which recited "a data center," and therefore,
13 there is proper antecedent basis for "the data center" in Claim 45. Claims 46-47 depend from Claim
14 45, and therefore, there is proper antecedent basis for "the data center" as used in these two claims.
15 The same comment applies to Claim 48, which depends from Claim 44. Accordingly, the rejection of
16 these claims should be withdrawn.

17 Claims Rejected Under 35 U.S.C. § 102(e)

18 The Examiner has rejected Claims 1-3, 7, 10, 12-15, 19, 21, 22, 29, 31, 32, 35, 38, 40-43, 50,
19 52, and 53 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application
20 No. 2001/0010059 (Burman et al. et, which is hereinafter referred to as "Burman"). The Examiner
21 asserts that Burman describes each and every element of applicants' claimed invention. Applicants
22 respectfully disagree that Burman anticipates these claims, for the reasons noted below.

23 In the interest of reducing the complexity of the issues for the Examiner to consider in this
24 response, the following discussion focuses on independent Claims 1, 14, 21, 35, and 42. The
25 patentability of each remaining dependent claim is not necessarily separately addressed in detail.
26 However, applicants' decision not to discuss the differences between the cited art and each
27 dependent claim should not be considered as an admission that applicants concur with the
28 Examiner's conclusion that these dependent claims are not patentable over the disclosure in the
29 cited references. Similarly, applicants' decision not to discuss differences between the prior art and
30 every claim element, or every comment made by the Examiner, should not be considered as an

1 admission that applicants concur with the Examiner's interpretation and assertions regarding those
2 claims. Indeed, applicants believe that all of the dependent claims patentably distinguish over the
3 references cited. Moreover, a specific traverse of the rejection of each dependent claim is not
4 required, since dependent claims are patentable for at least the same reasons as the independent
5 claims from which the dependent claims ultimately depend.

6 As a preliminary matter, applicants would like to respectfully submit that the particular
7 sequence of steps related to the exchange of data in a client-server application environment as
8 disclosed by applicants' specification and as recited in the claims is non-trivial, and *any* differences
9 in sequence and/or operation, however slight in comparison to the disclosure and teaching of the
10 references, still represent *significant* and *distinguishable* differences between the reference and
11 applicants' invention due to the nature of the art. Therefore the Examiner is requested to carefully
12 consider the following arguments in favor of allowability.

13 Independent Claim 1

14 The Examiner asserts that each and every element of the applicants' claimed invention is
15 disclosed by Burman. Applicants respectfully disagree that Burman discloses each and every
16 element recited in Applicants' Claim 1. Furthermore, applicants assert that Burman actually fails to
17 disclose, teach, or even suggest the "method for determining performance metrics for a distributed
18 application" recited by applicants' Claim 1. Instead, Burman is generally directed to "determining
19 transfer time and/or bandwidth between devices" (Burman, Abstract, lines 1-2). There are significant
20 differences between that which is disclosed by Burman and the applicants' claimed invention, as will
21 be apparent from the discussion that follows.

22 Principally, in contrast to the Examiner's contention, Burman fails to disclose, teach, or
23 suggest **"including machine instructions that define a performance monitoring function with the**
24 **distributed application data** that were requested and transmitted over the network to the second
25 site," as recited by applicants' Claim 1 (emphasis added). Notably, in applicants' Claim 1, the
26 machine instructions are provided contemporaneously with the application data in response to the
27 request. Burman, however, discloses an entirely different sequence of events for the transfer of data.
28 In fact, Burman requires that several steps be performed before determining a transfer time and/or
29 bandwidth for data transmitted between devices. In contrast to applicants' Claim 1, Burman
30 discloses that "[u]pon receipt by the user's browser of the desired web page served during the step

1 104, the user's browser will *send or initiate a fetch rich media request* during the step 106”
2 (emphasis added). Clearly, applicants’ Claim 1 requires that a “fetch” be issued only once in order to
3 obtain both specific requested distributed data **and** machine instructions. Therefore the disclosure of
4 Burman cannot anticipate applicants’ Claim 1, since Burman does not describe the *same* invention as
5 the applicants.

6 Furthermore, Burman does not disclose, teach, or suggest determining “one or more
7 performance metrics for the distributed application *without* using the performance monitoring
8 function to *request any* distributed application data **from any other site,”** as recited by applicants’
9 Claim 1 (emphasis added). In fact, the invention that Burman discloses actually *prevents achieving a*
10 feature of the applicants’ invention, by requiring that data be fetched from another site (see, step 112
11 of Fig. 1, and Para 66, lines 4-6) prior to determining a transfer time (see, Par 70, lines 16-19).
12 Additionally, applicants’ disclosure explicitly states that:

13 [u]pon receiving the managed Web page in a step 102, the client browser program parses
14 and processes the HTML document. As a part of loading and rendering the content of
15 this Web page, the browser monitor Javascript code is loaded and interpreted. The
16 browser monitor ... records various state information and determines the performance
metrics for the page in step 106. (Specification, pg. 19, lines 18-21, 22-25.)

17 In contrast, Burman discloses that:

18 Upon receipt of the rich media requested or fetched by the user's browser during the step
19 102 and served or sent by the ad selection server 32 during the step 108, the user's
20 browser will run or initiate the rich media during step 110. (Para 63, lines 1-4, emphasis
21 added.)

22 The rich media served to the user's browser during the step 108, upon execution by the
23 user's browser during step 110, may also start a clock or timer or, at least note the current
24 time, and, during the step 112, *cause the user's browser to fetch or request an image by*
sending a fetch image request. (Para 66, lines 1-6, emphasis added.)

25 Clearly, Burman discloses a very different sequence of steps than applicants’ specification and
26 corresponding Claim 1, which actually prevent achieving a recited aspect of applicants’ claim.
27 Namely, Burman requires that the bandwidth and time parameters be measured when a fetch request
28 is issued, which is clearly in violation of applicants’ claimed approach.

29 Accordingly, the rejection of independent Claim 1 under 35 U.S.C. § 102(e) over Burman
30 should be withdrawn based on the reasons given above. Because dependent claims are considered to

1 include all of the elements of the independent claims from which the dependent claims ultimately
2 depend and because Burman does not disclose or suggest all of the elements of independent Claim 1,
3 the rejection of dependent Claims 2-3, 7, 10, and 12 under 35 U.S.C. § 102(e) over Burman should
4 also be withdrawn, for at least the same reasons as the rejection of Claim 1.

5 Independent Claim 13

6 Applicants respectfully disagree that Burman discloses each and every element recited in
7 Applicants' Claim 13. Burman fails to disclose, teach, or suggest "a machine-readable medium on
8 which are stored machine instructions for inclusion with distributed application data that are
9 transferred from one site to another" as recited by applicants' Claim 13. Specifically, Burman fails to
10 disclose, teach, or suggest "a performance monitoring function to be implemented **when the**
11 **distributed data are accessed**," as recited by applicants' Claim 13 (emphasis added). In applicants'
12 Claim 13, the machine instructions for the performance monitoring function are *included* with
13 distributed application data *and* implemented **when** the distributed data are accessed. As discussed
14 above, Burman actually discloses an entirely different sequence of events for the transfer of data. In
15 fact, Burman requires that several steps be performed before determining a transfer time and/or the
16 bandwidth between devices, and these steps are not in accord with applicants' claim. Clearly,
17 applicants' Claim 13 recites that distributed application data are transferred from one site to another
18 *once* in order to obtain both requested distributed data *and* machine instructions to implement a
19 performance monitoring function **when the distributed data are accessed**. Therefore the disclosure
20 of Burman cannot anticipate applicants' Claim 13, since Burman does not describe the *same*
21 invention as the applicants.

22 Furthermore, Burman does not disclose or suggest determining "one or more performance
23 metrics for a distributed application... without using the performance monitoring function to request
24 any distributed application data from any other site," as recited by applicants' Claim 13 (emphasis
25 added). In fact, the invention that Burman discloses actually prevents achieving a feature of the
26 applicants' claim, by requiring that data be fetched from another site (see, step 112 of Fig. 1, and Para
27 66, lines 4-6) to facilitate determining a transfer time (see, Par 70, lines 16-19). As discussed above,
28 Burman teaches that "[t]he *rich media* served to the user's browser during the step 108...during the
29 step 112, cause[s] the user's browser *to fetch or request* an image by sending a fetch image request"
30

1 (Para 66, lines 1-2, 4-6) (emphasis added). This step is used to make the time and bandwidth
2 determination.

3 Additionally, the Examiner relies on Burman (Para 69, lines 1-7) in asserting that “images
4 requested are on the same server” (OA, Para. 22, lines 9-10). However, the Examiner appears not to
5 distinguish the significant structural difference between Burman and applicants’ Claim 13;
6 principally, that the *browser monitoring function* of Claim 13 is **not** used to initiate a request for **any**
7 data, which is functionally opposite to what Burman discloses.

8 Clearly, Burman teaches a very different sequence of steps than applicants’ specification and
9 fails to achieve the recited functionality of Claim 13. Burman teaches carrying out at least one
10 additional step that is not in accord with applicants’ Claim 13 and thereby fails to achieve applicants’
11 claimed invention. Accordingly, the rejection of independent Claim 13 under 35 U.S.C. § 102(e)
12 over Burman should be withdrawn based on the reasons given above.

13 Independent Claim 14

14 Applicants respectfully disagree that Burman discloses each and every element recited in
15 Applicants’ Claim 14, since Burman fails to disclose, teach or even suggest the “system for
16 determining one or more performance metrics for a distributed application” as recited by applicants’
17 Claim 14. This rejection is not justified because Burman fails to teach or suggest “said processing
18 device at the first site responding by transmitting the distributed application data along with machine
19 instructions that cause the processing device at the second site to perform a performance monitoring
20 function when executed... as the distributed application data are accessed at the second site,” as
21 recited by applicants’ Claim 14. Specifically, in applicants’ Claim 14, the machine instructions are
22 provided contemporaneously with the application data in response to a request for the application
23 data. As discussed above, Burman discloses an entirely different sequence of events for the transfer
24 of data, requiring that several steps be performed before determining a transfer time and/or bandwidth
25 between devices. Clearly, applicants’ Claim 14 requires that a request be issued **once** in order to
26 obtain both requested distributed data **and** machine instructions that are executed to determine one or
27 more performance metrics. Therefore the disclosure of Burman cannot anticipate applicants’
28 Claim 14, since Burman does not describe the *same* invention as recited by applicants’ claim.

29 Furthermore, Burman does not teach or suggest that the performance monitoring function
30 determines “at least one performance metric” that is “implemented... without using the performance

1 monitoring function to request any distributed application data from any other site,” as recited by
2 applicants’ Claim 14. For the reasons stated above with regard to Claims 1 and 13, Burman teaches
3 away from applicants’ claimed invention, by requiring that data be fetched from the first site or
4 another site (see, step 112 of Fig. 2, and Para 66, lines 4-6) to enable determining a transfer time (see,
5 Par 70, lines 16-19).

6 Additionally, the Examiner relies on Burman (Para 69, lines 1-7) to contend that “images
7 requested are on the same server” (OA, Para. 23, lines 16-17). However, as discussed above, the
8 Examiner appears not to distinguish the significant difference between Burman and applicants’
9 Claim 14, principally, that the **browser monitoring function** of Claim 14 is **not** used to initiate a
10 request for **any** data to enable determining a performance metric, which is functionally opposite to
11 what Burman discloses. Unlike Burman, applicants’ claimed invention downloads requested
12 distributed application data and at the same time receives the machine instructions that are executed
13 to determine performance metrics without the need for requesting a download from any other site.

14 Accordingly, the rejection of independent Claim 14 under 35 U.S.C. § 102(e) over Burman
15 should be withdrawn based on the reasons given above. Because dependent claims are considered to
16 include all of the elements of the independent claims from which the dependent claims ultimately
17 depend and because Burman does not disclose or suggest all of the elements of independent
18 Claim 14, the rejection of dependent Claims 15 and 19 under 35 U.S.C. § 102(e) over Burman should
19 also be withdrawn, for at least the same reasons as the rejection of Claim 14.

20 Independent Claim 21

21 Applicants respectfully disagree that Burman discloses each and every element recited in
22 Applicants’ Claim 21 (as amended). For the reasons already noted above in regard to the other
23 independent claims, Burman fails to disclose, teach or even suggest the “method for determining and
24 collecting at least one performance metric related to access of a Web page by a browser program on a
25 client device, including at least one of a compound performance metric for a network,” as recited by
26 applicants’ Claim 21 (as amended). Burman fails to teach or even suggest “**including machine**
27 **instructions** with the Web page when the Web page is transferred to the client device” and “when the
28 page is loaded... causing the client device to carryout a browser monitoring function” to determine
29 “at least one performance metric on the client device... **without** using the **browser monitoring**
30

1 *function* to request any Web page from any other site,” as recited by applicant Claim 21 (as
2 amended).

3 Clearly, for the reasons already discussed, Burman discloses a very different sequence of
4 steps than applicants’ specification and corresponding Claim 21 (as amended). For at least this
5 reason, the implementation of rich media according to Burman is contrary to applicants’ claimed
6 invention.

7 The Examiner contends that step (e) of Claim 21 is optional, and asserts that Burman
8 anticipates steps (a)-(d) of Claim 21, “[s]ince no correlated performance metric is to be determined”
9 (OA Para 26, lines 15-17). However, Burman does not teach or suggest how to deal with the
10 condition in which a correlated performance metric *is* to be determined, as recited in the claim. A
11 conditional step in a claim is a limitation that must be taught by the prior art cited to justify a
12 rejection of the claim as anticipated by that art. In addition to the reasons stated above for the novelty
13 of Claim 21 over Burman, step (e) of Claim 21 decidedly distinguishes Claim 21 over Burman
14 precisely because it is an additional limitation that functions as a conditional step. The Examiner
15 overlooks the conditional determination “if,” which itself comprises an additional step separate from
16 the determination within the conditional statement. Burman does not disclose, teach, or suggest such
17 a determination, and therefore Burman does not anticipate or render Claim 21 (as amended) obvious.

18 Accordingly, the rejection of independent Claim 21 (as amended) under 35 U.S.C. § 102(e)
19 over Burman should be withdrawn based on the reasons given above. Because dependent claims are
20 considered to include all of the elements of the independent claims from which the dependent claims
21 ultimately depend and because Burman does not disclose or suggest all of the elements of
22 independent Claim 21 (as amended), the rejection of dependent Claims 22, 29, and 32 under
23 35 U.S.C. § 102(e) over Burman should also be withdrawn, for at least the same reasons as the
24 rejection of Claim 21 (as amended).

25 Independent Claim 35

26 Again, Burman fails to teach or suggest a “memory medium on which are stored machine
27 readable instructions, which when executed by a client computing device, cause the client computing
28 device to carryout a browser monitoring function,” as recited by applicants’ Claim 35. Specifically,
29 Burman fails to disclose, teach, or suggest:

30 said browser monitoring function being implemented ... for determining at least one
performance metric on the client computing device... being related to access of a

1 distributed application by a browser program... and enabling at least one of a compound
2 metric and a correlated metric to be determined without using the browser monitoring
3 function to request any distributed application...,

4 as recited by applicants' Claim 35. Specifically, Claim 35 recites "enabling at least one of a
5 *compound metric* and a *correlated metric* to be determined." Burman never discloses either a
6 compound metric as defined by the applicants (see, Specification, pg. 5, line 27 to pg. 6, line 3) or a
7 correlated metric. Therefore, for this reason alone, Burman does not anticipate applicants' Claim 35.

8 Additionally, as discussed above, Burman does not disclose or suggest that the performance
9 monitoring function determines "at least one performance metric being related to access of a
10 distributed application" that is "determined without using the browser monitoring function to request
11 any distributed application from any other site," as recited by applicants' Claim 35. For at least the
12 reasons discussed above, the invention that Burman fails to achieve a desired feature of applicants'
13 claimed invention, because Burman requires that data be fetched from another site by "[t]he *rich*
14 *media* served to the user's browser during the step 108" (see, step 112 of Fig. 1, and Para 66, lines 4-
15 6) prior to determining a transfer time (see, Par 70, lines 16-19), in order to determine a performance
16 metric.

17 Accordingly, the rejection of independent Claim 35 under 35 U.S.C. § 102(e) over Burman
18 should be withdrawn. Because dependent claims are considered to include all of the elements of the
19 independent claims from which the dependent claims ultimately depend and because Burman does
20 not disclose or suggest all of the elements of independent Claim 35, the rejection of dependent
21 Claims 38, 40 and 41 under 35 U.S.C. § 102(e) over Burman should also be withdrawn, for at least
22 the same reasons as the rejection of Claim 35.

23 Independent Claim 42

24 Burman fails to disclose, teach, or suggest applicants' "system for determining and collecting
25 at least one performance metric related to access of a Web page by a browser program," as recited by
26 applicants' Claim 42.

27 Burman does not teach or suggest retrieving "a Web page including machine instructions that
28 perform a browser monitoring function... determining at least one performance metric and being
29 implemented... without using the browser monitoring function to request any Web page from any
30 other site," as recited by applicants' Claim 42. For at least the reasons discussed above, the invention
that Burman discloses cannot achieve a salient feature of applicants' claimed invention, because

1 Burman requires that data be fetched from another site by “[t]he *rich media* served to the user’s
2 browser during the step 108” (see, step 112 of Fig. 1, and Para 66, lines 4-6) prior to determining a
3 transfer time (see, Par 70, lines 16-19).

4 Finally, as discussed above, Burman never discloses or suggests either a compound metric as
5 defined by the applicants (see, Specification, pg. 5, line 27 to pg. 6, line 3), or a correlated metric.
6 Therefore, Burman does not anticipate applicants’ Claim 42, and nothing in Burman would suggest
7 any modification to achieve applicants’ claim recitation.

8 Accordingly, the rejection of independent Claim 42 under 35 U.S.C. § 102(e) over Burman
9 should be withdrawn based on the reasons given above. Because dependent claims are considered to
10 include all of the elements of the independent claims from which the dependent claims ultimately
11 depend and because Burman does not disclose or suggest all of the elements of independent
12 Claim 42, the rejection of dependent Claims 43, 50, 52 and 53 under 35 U.S.C. § 102(e) over Burman
13 should also be withdrawn, for at least the same reasons as the rejection of Claim 14.

14 Claims Rejected Under 35 U.S.C. § 103(a)

15 The Examiner has rejected Claims 4, 6, 11, 16, 18, 23, 24, 26, 33, 34, 36, 44, 45, and 47 under
16 35 U.S.C. § 103(a) as being unpatentable over Burman in view of U.S. Patent No. 6,411,998 (Bryant
17 et al., hereinafter referred to as “Bryant”). Claims 5, 17, and 25 were rejected under
18 35 U.S.C. § 103(a) as being unpatentable over Burman in view of Bryant in further view of U.S.
19 Patent No. 5,732,218 (Bland et al., hereinafter referred to as “Bland”). Claims 8, 27, 28, 37, 48, 49,
20 54, and 56 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Burman in view of
21 Bland. Finally, the Examiner rejected Claims 9, 20, 30, 39, and 51 under 35 U.S.C. § 103(a) as being
22 unpatentable over Burman in view of a non-patent publication entitled “A Survey of Web Caching
23 Schemes for the Internet,” authored by Jia Wang, Cornell Network Research Group, Department of
24 Computer Science, Cornell University, Ithaca, NY.

25 As a preliminary matter, by law, in order to establish *prima facie* obviousness of a claimed
26 invention, all of the claim limitations must be taught or suggested by the prior art cited. Further, if
27 prior art, in any material respect teaches away from the claimed invention, the art cannot be used to
28 support an obviousness rejection.

29 Applicants therefore respectfully submit that this rejection of Claims 4, 6, 11, 16, 18, 23, 24,
30 26, 33, 34, 36, 44, 45, and 47 is improper. Claims 4, 6 and 11 depend from independent Claim 1,

1 Claims 16 and 18 depend from independent Claim 14, Claims 23, 24, 26, 33 and 34 depend from
2 independent Claim 21, and claims 36, 44, 45 and 47 depend from independent Claim 42. For the
3 reasons stated above with reference to Claims 1, 14, 21, 35, and 42, Burman does not teach or suggest
4 the recitation of Claims 1, 14, 21, 35 and 42. Furthermore, Burman actually teaches away from the
5 recited functionality of Claims 1, 14, 21, 35, and 42, and therefore, Burman cannot be properly used
6 to reject Claims 4, 6, 11, 16, 18, 23, 24, 26, 33, 34, 36, 44, 45, and 47, which depend from Claims 1,
7 14, 21, 35, and 42, under 35 U.S.C. § 103. Accordingly, the rejection of Claims 4, 6, 11, 16, 18, 23,
8 24, 26, 33, 34, 36, 44, 45, and 47 as being obvious over Burman in view of Bryant should be
9 withdrawn.

10 Applicants respectfully submit that the rejection of Claims 5, 17 and 25 is improper. Claim 5
11 depends from independent Claim 1, Claim 17 depends from independent Claim 14, and Claim 25
12 depends from independent Claim 21. For at least the reasons discussed above, Burman does not
13 disclose, teach, or even suggest the limitations of Claims 1, 14, and 21. Furthermore, Burman
14 actually teaches away from the recitation of Claims 1, 14, and 21 and therefore, Burman cannot be
15 properly used to reject Claims 5, 17, and 25, which depend from Claims 14, and 21, under
16 35 U.S.C. § 103. Accordingly, the rejection of Claims 4, 6, 11, 16, 18, 23, 24, 26, 33, 34, 36, 44, 45
17 and 47 as being obvious over Burman, in view of Bryant, and further in view of Bland should be
18 withdrawn.

19 Applicants respectfully submit that the rejection of Claims 8, 27, 28, 37, 48, 49, 54, and 56 is
20 improper. Claim 8 depends from independent Claim 1, Claims 27 and 28 depend from independent
21 Claim 21, Claim 37 depends from independent Claim 35, and Claims 48, 49, 54, and 56 all depend
22 from independent Claim 42. For at least the reasons discussed above, Burman does not disclose or
23 suggest the recitation of any of Claims 1, 21, 35, and 42. Furthermore, Burman actually teaches
24 away from achieving the feature recited in Claims 1, 21, 35, and 42 and therefore, cannot be properly
25 used to reject Claims 8, 27, 28, 37, 48, 49, 54, and 56, which depend from Claims 1, 21, 35, and 42,
26 under 35 U.S.C. § 103. Accordingly, the rejection of Claims 8, 27, 28, 37, 48, 49, 54, and 56 as
27 being obvious over Burman in view of Bland should be withdrawn.

28 Applicants respectfully submit that the rejection of Claims 9, 20, 30, 39, and 51 is also
29 improper. Claims 9, 20, 30, 39, and 51 depend from independent Claims 1, 21, 35, and 42,
30 respectively. For at least the reasons discussed above, Burman does not teach or suggest the

1 recitation of any of Claims 1, 21, 35, and 42. Furthermore, Burman actually teaches away from
2 applicants' invention as recited in these independent claims and therefore cannot be properly used to
3 reject Claims 9, 20, 30, 39, and 51, which respectively depend from Claims 1, 21, 35, and 42, under
4 35 U.S.C. § 103. Accordingly, the rejection of Claims 9, 20, 30, 39, and 51 as being obvious over
5 Burman in view of Wang should be withdrawn.

6 In view of the preceding remarks, it should be evident that this application is in condition for
7 allowance and should be passed to issue without delay. Should any further questions remain, the
8 Examiner is invited to telephone applicant's attorney at the number listed below.

9
10 Respectfully submitted,

11 
12

13 Ronald M. Anderson
14 Registration No. 28,829
15

16 RMA/PJN:lrg
17

18 MAILING CERTIFICATE

19 I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed
20 envelope as first class mail with postage thereon fully prepaid addressed to: Commissioner for Patents,
Alexandria, VA 22313-1450, on May 13, 2005.

21 Date: May 13, 2005
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